

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LEE H. STELLMACHER, *et al.*,

Plaintiffs,

v.

Case No. 22-CV-453

RANDALL HEPP, *et al.*,

Defendants.

**DECISION AND ORDER ON DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT**

Plaintiffs Lee H. Stellmacher and Jeffrey L. Larson, who are incarcerated and represented by counsel, bring this lawsuit under 42 U.S.C. § 1983. (ECF No. 1.) The plaintiffs were allowed to proceed on an Eighth Amendment claim against the defendants, Warden Randall Hepp, Warden Michael Meisner, and Candace Whitman, for alleged deliberate indifference to the risk of substantial harm posed by unsafe drinking water. The defendants filed a motion for summary judgment on the merits. (ECF No. 48.) The parties have consented to the jurisdiction of a magistrate judge. (ECF Nos. 7,8, 12.) The motion is ready for a decision.

In response to the defendants' summary judgment motion, the plaintiffs, who are represented by a lawyer who signed their submissions, submitted a five-page brief riddled with typos and, outside of a boilerplate summary judgment standard, does not cite any case law. (ECF No. 57.) The plaintiffs failed to address the qualified

immunity argument. They did not submit responses to the defendants' proposed findings of fact or submit their own proposed findings of fact as required by Civil Local Rule 56(b)(2)(B). The plaintiffs did attach two exhibits to their brief containing over 40 pages of unauthenticated records in an apparently random order. There are no supporting affidavits or declarations to attest to the plaintiffs' version of the facts.

Because the response is devoid of any admissible evidence or supported legal argument, the court will construe the defendants' version of the facts as unopposed. After reviewing the defendants' materials in support of their motion and the undisputed facts, the court concludes the defendants are entitled to summary judgment on the merits. This case is dismissed.

ORDER

IT IS THEREFORE ORDERED that the defendants' motion for summary judgment (ECF No. 48) is **GRANTED**.

IT IS FURTHER ORDERED that this case is **DISMISSED with prejudice**.

The Clerk of Court will enter judgment accordingly.

This order and the judgment to follow are final. A dissatisfied party may appeal this court's decision to the Court of Appeals for the Seventh Circuit by filing in this court a notice of appeal within **30 days** of the entry of judgment. *See* Federal Rule of Appellate Procedure 3, 4. This court may extend this deadline if a party timely requests an extension and shows good cause or excusable neglect for not being able to meet the 30-day deadline. *See* Federal Rule of Appellate Procedure 4(a)(5)(A).

Under certain circumstances, a party may ask this court to alter or amend its

judgment under Federal Rule of Civil Procedure 59(e) or ask for relief from judgment under Federal Rule of Civil Procedure 60(b). Any motion under Federal Rule of Civil Procedure 59(e) must be filed within **28 days** of the entry of judgment. The court cannot extend this deadline. *See* Federal Rule of Civil Procedure 6(b)(2). Any motion under Federal Rule of Civil Procedure 60(b) must be filed within a reasonable time, generally no more than one year after the entry of the judgment. The court cannot extend this deadline. *See* Federal Rule of Civil Procedure 6(b)(2).

A party is expected to closely review all applicable rules and determine what, if any, further action is appropriate.

Dated at Milwaukee, Wisconsin this 25th day of June, 2024.

BY THE COURT



WILLIAM E. DUFFIN
United States Magistrate Judge